



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Slovakia
<b>Title</b>	Landmark decision of the District Court ruling in favour of Roma woman discriminated against in access to employment
<b>Date:</b>	19 May 2017
<b>Expert:</b>	Vanda Durbakova
<b>Update of news report published 14 April 2016:</b>	The Constitutional Court Clarifying Some Aspects of Proving Discrimination in Civil Proceedings
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Direct discrimination in access to employment
<b>Ground of discrimination:</b>	Race/ethnic origin
<b>Source:</b>	National court decision, District Court in Spišská Nová Ves from 23 March 2017 delivered on 24 April 2017, n. 8 C 268/2016 – 523
<b>Field:</b>	Access to employment
<b>Applicable law:</b>	Act no. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Antidiscrimination Act), § 2 para 1; §§ 2a para 1 and 4; § 6 para 2 a); §§ 9 para 2-4, §§ 11 para 1-2

### Content

**Case:** V.P. against Town of Spišská Nová Ves from 23 March 2017 delivered on 24 April 2017, n. 8 C 268/2016 – 523.

**Case development:** In 2011, the claimant sued the town of Spišská Nová Ves (“the town”) for discriminating against her by not selecting her for one of three vacant positions of terrain social workers, financed by the Social Development Fund. When compared with the applicant, the persons selected for the positions were less qualified, had less experience with terrain social work and less training, did not speak Roma language, and were of non – Roma origin. Experience with terrain social work, speaking Roma language and being of Roma origin were deemed to be advantages in the selection process (although the latter two were listed as advantages by the Social Development Fund only).

In 2012, the District Court in Spišská Nová Ves dismissed the complaint as manifestly ill-founded and its decision was confirmed in 2013 by the Regional Court in Košice. The claimant subsequently lodged a complaint to the Constitutional Court. On 1 December 2015, the Constitutional Court ruled that the regional court had violated the complainant’s right to a fair trial as well as her right to an effective remedy. It quashed the regional court decision and ordered the national general courts to deal with the case again. By its decision of 24 August 2016, the Regional Court in Košice subsequently quashed the first instance court decision from 18 April 2012, so the case returned before

the District Court in Spišská Nová Ves again.<sup>1</sup>

**Decision of the Court:** On 23 March 2017, the District Court in Spišská Nová Ves decided the case again. It ruled that the respondent discriminated against the claimant on the ground of her Roma ethnic origin, and ordered the respondent to send her a written apology, to pay non-pecuniary damages to the amount of 2 500€ and to refund 50% of her legal costs. The court partially dismissed the claim for non-pecuniary damage, as the claimant had requested a total amount of 5 000€. It concluded that the claimant met its burden of proof and established a *prima facie* case of discrimination, so the burden of proof shifted to the respondent. According to the district court, the respondent did not submit any evidence proving that he did not discriminate against the claimant. In addition, he did not provide any reasonable arguments why the advantages listed by the Social Development Fund - speaking Roma language and being of Roma origin - were not included into the selection process set by the respondent. Finally, the respondent did not provide any reasonable explanation on the selection of the other applicants who were less qualified and had less experience with terrain social work and less training comparing to the claimant and on interference of other respondent's employees into the selection process.

Taking into account the circumstances of the case, the court was of the opinion that there is a ground to provide the claimant with non-pecuniary redress in the form of a written apology and also non-pecuniary damages in amount of 2 500€. In this regard, the court concluded that discrimination as such interferes with the victim's human dignity, and also pointed out a preventive function of the financial compensation towards future potential discriminatory treatment. The court found the amount of 2500€ to be adequate financial compensation in this case, so it partially dismissed a claim for non-pecuniary damages.

The claimant has appealed the parts of the decision whereby the district court partially dismissed her claim for non-pecuniary damage and awarded her only 50% of her legal costs.

The legal representation of the claimant was supported by the Slovak NGO Center for Civil and Human Rights (Poradna) within its strategic litigation program.

**Key points of analysis:** The District Court ruled in favour of a Roma woman claiming direct discrimination in access to employment, reasoning that the respondent did not met its burden of proof in relation to alleged discrimination. According to the national expert's best knowledge this is a landmark decision of the national court, ruling for the first time in favour of a Roma claimant in a case of racial discrimination in access to employment. In addition however, the decision proves that the national courts in Slovakia are still reluctant to award adequate financial compensation in cases of discrimination. The awarded amount of financial compensation in this case can be considered contrary to the Council Directive 2000/43/EC.

**Internet link source:** The decision in Slovak language can be found at:  
<https://www.poradna-prava.sk/sk/dokumenty/nepravoplatny-rozsudok-okresneho-sudu-v-pripade-diskriminacie-romskej-zeny-v-pristupe-k-zamestnaniu/>.

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<sup>1</sup> Decision No 9 Co 54/2016 – 462 of 24 August 2016.